

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL SUA

Petitioner,

vs.

JAMES TILTON, Secretary

Respondent.

CASE NO. 07cv1338 JM(BLM)

ORDER GRANTING RELIEF FROM
JUDGMENT; SCHEDULING
ORDER

Petitioner moves for relief from the Clerk's Judgment entered on June 9, 2008 adopting the Report and Recommendation to deny the petition for writ of habeas corpus. Reconsideration is generally appropriate "if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law. . . . There may also be other, highly unusual circumstances warranting reconsideration." School Dist. No. 1J, Multnomah County, Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993) (citations omitted).

Petitioner moves for relief from the Clerk's Judgment on the ground that he never received the Report and Recommendation nor any responsive pleadings. Petitioner supports the motion with a declaration and a copy of his mail log which does not reflect the receipt of the Report and Recommendation. Under these circumstances, the court finds that it is in the interests of justice to permit Petitioner an opportunity to file Objections to the Report and Recommendation.


Petitioner may file and serve Objections to the Report and Recommendation no later than August 15, 2008. Respondent may file a reply brief no later than August 28, 2008. Pursuant to Local

1 Rule 7.1(d)(1), the matter will be taken under submission at that time without oral argument.

2 In sum, the motion for reconsideration is granted.

3 **IT IS SO ORDERED.**

4 DATED: July 9, 2008

5 
6 Hon. Jeffrey T. Miller
United States District Judge

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